

means for measuring a tilt of the vehicle path relative to a level path; and

means for determining a Vehicle Specific Power of the vehicle due to the calculated acceleration based in part on the measured tilt.

REMARKS

Claims 1-27 are pending in the application.

In the outstanding Office Action there was an objection to the drawings. It is stated that the reference character "24" is used to designate both a tilt sensor and an RS232 interface (see Figure 1 and specification at page 9). Reconsideration and withdrawal of the objection are respectfully requested. The drawing and specification have been amended to identify the RS232 interface with reference numeral 23. It is respectfully submitted that these amendments obviate the objection. Therefore withdrawal of the objection is respectfully requested.

There was an objection to claims 1, 8, 9, 14-19 and 25-27 for various minor informalities. Reconsideration and withdrawal of the objection are respectfully requested. Claims 1, 8, 9, 14-19 and 25-27 have been amended to obviate the objections. Therefore withdrawal of the objections is respectfully requested.

Claims 1-18 were rejected under 35 U.S.C. §112, first paragraph as containing subject matter not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, has possession of the claimed invention. Reconsideration and withdrawal of the rejection is respectfully requested.

It is stated in the Office Action that with respect to claims 1 and 16, the specification does not describe an embodiment in which a second radiation source on a first side emits radiation towards a second reflector arranged on a second side, which reflects radiation towards the first side and wherein a second detector is arranged on the second side. Claims 1 and 16 have been

amended to define the detector on the first side thereby obviating the rejection. Therefore withdrawal of the rejection is respectfully requested.

Claims 1-27 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Reconsideration and withdrawal of the rejection is respectfully requested.

With respect to claims 1 and 16 it is stated in the Office Action that it is unclear how a second detector on the second side receives reflected radiation from a second reflector, where the second reflector reflects radiation towards the first side. Claims 1 and 16 have been amended to define the second detector as being on the first side to receive reflected radiation from the second reflector.

With respect to claims 1, 16, 19 and 26 it is stated in the Office Action that it is unclear how a speed or acceleration of a vehicle is measured by configuring detectors along a vehicle path. As explained on pages 8-10 of the present specification, a vehicle's speed and acceleration can be determined based on detected blocking and/or unblocking of the beams.

With respect to claims 25 and 27 it is stated in the Office Action that it is unclear what determining the specific power of the vehicle due to the calculated acceleration based in part on the measured tilt means. It is respectfully submitted page 12, item 38 of the present specification outlines how specific power is determined due to the calculated acceleration based in part on the measured tilt.

With respect to claims 15, 25 and 27 it is stated in the Office Action that it is unclear how specific power can be calculated from acceleration and a tilt value. It is respectfully submitted

page 12, item 38 of the present specification outlines how specific power can be calculated from acceleration and a tilt value.

In view of the foregoing, withdrawal of the rejection to claims 1-27 under 35 U.S.C. §112, second paragraph is respectfully requested.

Claims 1-4, 8, 9, 16, 19, 24 and 26 were rejected under 35 U.S.C. §102 as being anticipated by McConnell et al. (U.S. Patent No. 5,910,929). Reconsideration and withdrawal of the rejection are respectfully requested.

The invention as recited in independent claims 1, 16, 19 and 26 of the present application includes radiation sources positioned in substantially the **same plane** of the vehicle path as the reflectors. McConnell et al. at best discloses the sources and detectors on a single pole mount, that send/receive signals from one or more reflectors that are not in the same plane of the vehicle path as the source/detectors. McConnell et al. fails to disclose radiation sources positioned in substantially the **same plane** of the vehicle path as the reflectors as recited in independent claims 1, 16, 19 and 26.

Claims 2-4, 8, 9 and 24 each ultimately depend on one of claims 1, 16, 19 and 26. It is therefore respectfully submitted that claims 2-4, 8, 9 and 24 are not anticipated by McConnell et al. for at least the same reasons as discussed with respect to claims 1, 16, 19 and 26.

In light of the foregoing withdrawal of the rejection of claims 1-4, 8, 9, 16, 19, 24 and 26 under 35 U.S.C. §102 as being anticipated by McConnell et al. is respectfully requested.

Claims 5-7, 10, 11, 17, 18 and 20 were rejected under 35 U.S.C. §103 as being unpatentable over McConnell et al. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 5-7, 10, 11, 17, 18 and 20 each ultimately depend on one of claims 1, 16, 19 and 26. It is therefore respectfully submitted that claims 2-4, 8, 9 and 24 are patentable over McConnell et al. for at least the same reasons as discussed in response to the rejection of claims 1, 16, 19 and 26 under 35 U.S.C. §102.

In light of the foregoing withdrawal of the rejection of claims 5-7, 10, 11, 17, 18 and 20 under 35 U.S.C. §103 as being unpatentable over McConnell et al. is respectfully requested.

Claims 12-15, 21-23, 25 and 27 were rejected under 35 U.S.C. §103 as being unpatentable over McConnell et al. in view of Johnson et al. (U.S. Patent No. 5,812,249). Reconsideration and withdrawal of the rejection are respectfully requested.

The invention as recited in claims 13 and 22 of the present application include a radiation source that produces a modulated beam. It is admitted in the Office Action that McConnell et al. does not disclose a radiation source that produces a modulated beam. However, it is argued that Johnson et al. discloses a radiation source that produces a modulated beam.

Johnson et al. fails to teach or suggest a radiation source that produces a modulated beam as recited in claims 13 and 22 of the present application. One advantage of using modulated beams is that it will minimize reflective noise, and thereby provide improved performance (see page 13, fourth paragraph of the present specification).

Johnson et al. teaches away from using modulated beams. It is stated in column 2, lines 59-60 of Johnson et al. that the modulation and beamwidths can cause inaccuracies that are not tolerable. Therefore Johnson et al. teaches to use non-modulated laser beams (see column 1, lines 56-59 of Johnson et al.)

Thus, McConnell et al. in combination with Johnson et al. not only fails to teach or suggest a radiation source that produces a modulated beam as recited in claims 13 and 22 of the

present application, but Johnson et al. teaches away from having modulated beam widths as recited in claims 13 and 22.

It is further submitted that claims 12-15, 21-23, 25 and 27 are each ultimately dependent on one of claims 1, 16, 19 and 26. It is therefore respectfully submitted that claims 12-15, 21-23, 25 and 27 are patentable over McConnell et al. in view of Johnson et al. for at least the same reasons as discussed in response to the rejection of claims 1, 16, 19 and 26 under 35 U.S.C. §102.

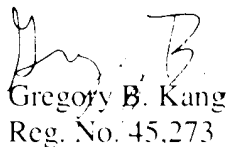
In light of the foregoing, withdrawal of the rejection of claims 12-15, 21-23, 25 and 27 under 35 U.S.C. §103 is respectfully requested.

It is respectfully submitted that the application is now in condition for allowance. If it is believed that the application is not in condition for allowance, the Examiner is invited to contact the undersigned attorney if it is believed that such contact will expedite the prosecution of the application.

In the event this paper is not timely filed, Applicants petition for an appropriate extension of time. Please charge any fee deficiencies or credit any overpayments to Deposit Account No. 50-2036.

Respectfully submitted,

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